

## THE MATTER OF A RECESS

House Referred Question to Committee Yesterday.

### PRIMARY BILL OFFERED

Mr. Barkdale Would Legalize Party Elections—Commission Resolution in Senate—House Session.

The Senate held quite a long session yesterday and disposed of a good deal of business of more or less importance.

The Cabell House resolution, providing for a recess of the General Assembly from May 15th to November 10th, came over, and after a number of amendments were proposed, the entire matter was referred to the Committee for Courts of Justice. Mr. Byrns' amendment was for a recess of the General Assembly from May 15th, and Mr. Wickham wanted an equal number of members on the part of each house on the proposed commission.

Senator Barkdale proposed a primary election bill, which was referred, providing for a delegation of the delegates to be chosen in primaries.

The Boaz University bill was passed by, and a number of House bills were passed, none of which were of sweeping interest.

The House met at noon and disposed of its calendar. The only interesting measure dealt with was that confirming leases to certain oyster bottoms in Westmoreland county, which was engrossed.

The Senate.

There was an unusually large attendance of the Senate for Monday. The proceedings were opened without prayer. When the Cabell resolution, passed by the House, in relation to appointing a commission to revise the constitution, was taken up, Mr. Wickham offered an amendment to make the commission consist of three members from each branch of the General Assembly, and Mr. Byrns moved for the yeas and nays.

Mr. Byrns offered the following amendment:

"That the General Assembly adjourn on the 15th day of May, 1903."

In Section 2, in the fourth line from the top, strike out all of said section and insert the word "recess" and insert "and report the result of their work by bill to the next regular session of the General Assembly."

Mr. Anderson presented the following:

"Strike out all relating to duties and insert 'whose duty it shall be to ascertain and report all constitutional provisions passed at this session as compared with each other and pre-existing statutes, and to draft and report such amendments as may be necessary to reconcile, perfect and supply the same, as well as such other bills as may be necessary to put the new Constitution in full and complete operation.'"

The House resolution and all the amendments were referred to the Committee for Courts of Justice.

AS TO PRIMARIES.

Mr. Barkdale offered a bill in reference to primary elections. The act makes the county unit and provides for the election of delegates to a State convention. It is optional with the party organization as to whether it will take advantage of its provisions. It provides that the election of judges and the ascertaining of the result shall be governed by the election laws of the State.

Under its provisions any county or city may vote on the United States Senatorship and the result shall be construed as determining the wishes of the people of said county as to the position their Senator or delegate shall take on the question, in the event of his election to the Legislature.

Under the bill all elections shall be held the same day and the vote canvassed as in the case of a regular election held under the general election laws of the State. In the case of candidates for Congress it provides for the election of delegates from county and city to a district convention.

UNIVERSITY PRESIDENT.

The Boaz bill providing for the election of a president for the University of Virginia by the Board of Visitors and for the Board to prescribe the duties of the president, was rejected, but the vote was reconsidered on motion of Mr. McIlwaine and the consideration of the measure resumed.

Mr. Chapman's motion for a recess was not voted and Mr. McIlwaine thought very few Senators were acquainted with the provisions of the measure.

ATTORNEY-GENERAL'S OPINION.

The Lieutenant-Governor presented the following communication:

March 27, 1903.

Opinion of the Attorney-General, in response to resolution of the Senate in regard to the terms of office and election of school trustees.

Hon. Joseph B. Willard, President of the Senate of Virginia:

Sir:—The resolution of the Senate, of which the following is a copy, has reached me:

"Resolved by the Senate of Virginia, That the Attorney-General be, and he is hereby directed to enquire, ascertain and report to this body, whether, under section 11 of the constitution, the school trustees, when elected, shall remain in office until the General Assembly has provided by law for their election."

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or appointment, or without such action, whether upon the expiration of the terms of trustees in office, when the Constitution took effect, such trustees should be elected under the law in force prior to the day on which the Constitution went into effect.

By section 11 to the schedule to the Constitution, it is provided that, "School trustees now in office, or those who succeed to their offices in office until otherwise provided by law."

Section 11 of the schedule enacts that, "The Common law and the statute laws in force at the time this Constitution went into effect, so far as not repugnant thereto, or repealed thereby, shall remain in force until they expire by their own limitation, or are altered or repealed by the General Assembly."

Section 11 of the schedule merely continues in force the school trustees in office when the Constitution was adopted, and their successors. It does not declare how vacancies in the office of school trustees shall be filled, or how their successors shall be chosen. The statute laws of the State will plainly provide for filling vacancies in these offices, and for the continuation of the school trustees until the expiration of existing terms.

This statute is not repealed by, nor repugnant to, any provision of the Constitution, and therefore continues in force. It is optional with the General Assembly, under section 11 of the schedule, to alter or repeal by the General Assembly.

From which it follows that vacancies in the office of school trustees are filled, and the terms of office will be chosen, in the manner provided by the laws in force at the date of the adoption of the Constitution, unless and until those laws shall be "altered or repealed by the General Assembly."

While such is, I think, a reasonable conclusion as to the true intent, meaning and effect of the several provisions of the Constitution and schedule referred to, when construed together, yet the sentence quoted from section 11 of the schedule, taken by itself, is readily susceptible of a different construction.

Any doubt or uncertainty upon such a subject would be unfortunate, and can, and I respectfully suggest should, be removed by the enactment of a law, expressly prescribing when the term of office of school trustees in office when the Constitution took effect, shall expire and that of their successors shall begin.

WILLIAM A. ANDERSON, Attorney-General.

COMMITTEE REPORTS.

Mr. McIlwaine, from the Committee for Courts of Justice, reported without amendment Senate bill to fix the terms of the judges of the Corporation Courts for the cities of Bristol, Radford and Buena Vista.

Mr. McIlwaine, from the same committee, reported with amendments Senate bill to legalize a certain election held by the qualified voters of Prince Edward county, Virginia, for the purpose of subscribing to the stock of the Chesapeake and Potomac Telephone and Cable Company; to empower and direct the supervisors of said county to subscribe to the preferred capital stock of said company to an amount not exceeding fifty-seven thousand dollars in the said county's bonds or three thousand dollars per mile in the said county's bonds, per mile upon the terms and conditions hereinafter set forth.

Mr. McIlwaine, from the same committee, reported without amendment two joint resolutions, one to amend section 11 of the constitution, and the other to amend section 12 of the constitution, both relating to the election of school trustees.

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